



## OFFICE OF JUDICIAL PERFORMANCE EVALUATION

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### JUDICIAL PERFORMANCE FACT SHEET

#### PURPOSE

- Commissions on Judicial Performance were created in 1988 by the Colorado General Assembly for the purpose of providing voters with fair, responsible and constructive evaluations of judges and justices seeking retention. The results also provide judges with information to help improve their professional skills as judicial officers.

#### AUTHORITY

- Article VI, Colorado Constitution
- C.R.S. 13-5.5-101 *et seq.*
- Rules Governing Commissions on Judicial Performance

#### COMMISSIONS

- Colorado has 231 volunteer citizen commissioners providing judicial performance evaluations for State Judges. There is one commission in each of the 22 Judicial Districts and one State Commission. The State Commission is comprised of eleven commissioners: six non-attorneys and five attorneys. Each District Commission consists of 10 commissioners: six non-attorneys and four attorneys. Appointments to the Commissions are made by the Chief Justice, Governor, Speaker of the House, President of the Senate, House Minority Leader and Senate Minority Leader as follows:

##### State Commission

Chief Justice:	two attorneys
Governor:	one attorney and two non-attorneys
Speaker of the House:	one attorney and one non-attorney
President of the Senate:	one attorney and one non-attorney
House Minority Leader:	one non-attorney
Senate Minority Leader:	one non-attorney

## **District Commissions (22 JDs)**

Chief Justice:	two attorneys
Governor:	two non-attorneys
Speaker of the House:	one attorney and one non-attorney
President of the Senate:	one attorney and one non-attorney
House Minority Leader:	one non-attorney
Senate Minority Leader:	one non-attorney

- Commissioners serve a four-year term with a maximum of two terms, not to exceed eight years within a judicial district.
- The State Commission develops the Rules Governing Commissions on Judicial Performance and evaluates the performance of Supreme Court justices and Court of Appeals judges.
- District Commissions evaluate the performance of County and District Court Judges in their local judicial districts.

## **PROCESS**

- **Trial Judge Performance Criteria**
  - Integrity – including but not limited to whether the judge:
    - Avoids impropriety or the appearance of impropriety
    - Displays fairness and impartiality toward all participants; and
    - Avoids ex parte communications
  - Legal Knowledge – including but not limited to whether the judge:
    - Demonstrates an understanding of substantive law and the relevant rules of procedure and evidence
    - Demonstrates awareness of and attentiveness to factual and legal issues before the court; and
    - Appropriately applies statutes, judicial precedent, and other sources of legal authority
  - Communication Skills – including but not limited to whether:
    - The judge’s finding of fact, conclusions of law, and orders are clearly written and understandable;
    - The judge’s oral presentations are clearly stated and understandable and the judge clearly explains all oral decisions; and
    - The judge clearly presents information to the jury
  - Judicial Temperament – Including but not limited to whether the judge:
    - Demonstrates courtesy toward attorneys, litigants, court staff, and others in the courtroom
    - Maintains and requires order, punctuality, and decorum in the courtroom; and

- Demonstrates appropriate demeanor on the bench
  - Administrative Performance – Including but not limited to whether the judge:
    - Demonstrates preparation for all hearings and trials
    - Uses court time efficiently
    - Issues findings of fact, conclusions of law, and orders without unnecessary delay
    - Effectively manages cases
    - Takes responsibility for more than his or her own caseload and is willing to assist other judges; and
    - Understands and complies with the directives of the Colorado Supreme Court
  - Service to the Legal Profession and the public
    - By participating in service-oriented efforts designed to educate the public about the legal system and to improve the legal system
- **Appellate Judge Performance Criteria**
  - Integrity – including but not limited to whether the justice or judge:
    - Avoids impropriety or the appearance of impropriety
    - Displays fairness and impartiality toward all participants; and
    - Avoids ex parte communications
  - Legal Knowledge – including, but not limited to whether the justice’s or judge’s opinions:
    - Are well-reasoned and demonstrate an understanding of substantive law and the relevant rules of procedure and evidence
    - Demonstrate attentiveness to factual and legal issues before the court; and
    - Adhere to precedent or clearly explain the legal basis for departure from precedent
  - Communication Skills – including, but not limited to whether the justice’s or judge’s:
    - Opinions are clearly written and understandable; and
    - Questions or statements during oral arguments are clearly stated and understandable
  - Judicial Temperament – including but not limited to whether the justice or judge:
    - Demonstrates courtesy toward attorneys, litigants, court staff, and others in the courtroom; and
    - Maintains appropriate decorum in the courtroom
  - Administrative Performance – including but not limited to whether the justice or judge:
    - Demonstrates preparation for oral argument, attentiveness, and appropriate control over judicial proceedings
    - Manages workload effectively

- Issues opinions in a timely manner and without unnecessary delay; and
    - Participates in a proportionate share of the court’s workload
  - Service to the Legal Profession and the Public
    - By participating in service-oriented efforts designed to educate the public about the legal system and to improve the legal system
- Commissions must use the following information in order to make recommendations to the voters regarding the retention of an individual judge:
  - Survey results
    - Trial Judge
 

Surveys are sent to attorneys (including prosecutors, public defenders, and private attorneys), jurors, litigants, law enforcement personnel, court employees, court interpreters, probation office employees, social services employees, crime victims, and appellate judges
    - Appellate Judge
 

Surveys are sent to attorneys (including prosecutors, public defenders, and private attorneys), other appellate judges, appellate staff attorneys, and district judges
  - Information from observing the judge in the courtroom
  - Information furnished by the judge in a self-evaluation
  - Review of decisions/opinions
  - Review of individual judge statistics, including caseload information, and open case reports.
  - Information from meetings held with a representative of the District Attorney’s Office and/or a representative of the Public Defender’s Office, when requested
  - Interview with the judge
- In addition, commissions may use the following information in order to make recommendations to the voters regarding the retention of an individual judge:
  - Information and documentation from interested persons
  - Information from interviews with justices and appellate judges and other persons
  - Information from public hearings

***Any information the commission uses must be made available to the judge being evaluated.***

***All commission interviews and deliberations concerning the retention of the judge are confidential.***

- Commissions must meet with the chief justice or judge prior to initiating the evaluation process for an informational briefing and overview of the court.

- Commissions complete a written narrative for each judge standing for retention, which must include a retention recommendation of “Retain”, “Do Not Retain”, or “No Opinion”, and the number of commissioners who voted for and against retention.
  - If a commission identifies one or more areas of significantly poor performance of a judge, it may recommend that the judge be placed on an improvement plan.

## **PUBLICATION**

- Narratives, recommendations, and survey reports are released to the public on the first day following the deadline for judges to declare their intent to stand for retention at [www.ojpe.org](http://www.ojpe.org).
- Results are linked to [www.coloradobluebook.com](http://www.coloradobluebook.com), [www.leg.state.co.us](http://www.leg.state.co.us), and [knowyourjudge.com](http://knowyourjudge.com)
- Results are published in the Legislative Council’s Blue Book (Voter Guide).

## **STATISTICS**

### **Elections Results: 1990 to 2018**

Colorado voters elected to retain 1,545 of the 1,559 (99.1%) judicial officers standing for retention since 1990. Colorado voters retained 99.7% of the judges receiving “Retain” recommendations, 63.6% of those receiving “Do Not Retain” recommendations, and retained all judicial officers where commissions offered no opinion. In 2018, Colorado voters retained 100% of the judges receiving “Meets Performance” and did not retain all judges receiving “Does Not Meet Performance” findings.

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